

INTERIM REVENUE AND TAX COMMITTEE PRESENTATION



CHAIRMAN JOHN L. VALENTINE
UTAH STATE TAX COMMISSION
MAY 18, 2016

UTAH STATE TAX COMMISSION

Issue:

1. Statute of Limitations
2. Severance Tax

STATUTE OF LIMITATIONS – CORPORATE FRANCHISE TAX

Issue: Different statute of limitations for corporate income tax if appeal is based on FTI versus other adjustments such as apportionment of tax.

- Case Appeal Numbers: 11-3055/12-2372, issued August 14, 2014, applied statute as written
- SB 94 General Session (2015) and SB 1001 Special Session (2015)

STATUTE OF LIMITATIONS – CORPORATE FRANCHISE TAX

Presentation: August 18, 2015 to
Executive Appropriations Committee

- Audit Division
- Appeals Unit, Office of the
Commission

STATUTE OF LIMITATIONS – CORPORATE FRANCHISE TAX

Appeals Unit prior cases:

Statute of Limitations applied as written

- A. Case number 11-1206 issued 2011
- B. Case number 09-1601 issued 2009
- C. Case number 05-1414 issued 2006
- D. Case number 02-1764 issued 2003
- E. Case number 00-1561 issued 2001

SEVERANCE TAX - CALCULATION OF PERCENTAGE

Issue: Calculation of rates: 3% versus 5%

Issue: Effect of Exempt Interests

SEVERANCE TAX - CALCULATION OF PERCENTAGE

Prior to 2008 for 18 years, all taxpayers – same method.

- 2008 Anadarko filed using same method.
- 2009 Anadarko filed using a new method and filed amended return for 2008.
- Utah Supreme Court decision *Anadarko Petroleum Corp v. Utah State Tax Commission*, 345 P.3d 648 (Utah 2015)

SEVERANCE TAX - CALCULATION OF PERCENTAGE

Supreme Court ruled: “We hold ... [the statutes] categorically exclude any federal, state and Indian Tribe interests from the net taxable value of oil and gas interest for purposes of calculation the applicable tax rate.” [emphasis added.]

SEVERANCE TAX - CALCULATION OF PERCENTAGE

Court ruling specified what types of oil and gas interest were subject to taxation, but did not address deduction for expenses of production to achieve Net Taxable Value.

SEVERANCE TAX - CALCULATION OF PERCENTAGE

New issue: Are expenses incurred to produce exempt oil and gas, deducted from the revenue generated from taxable oil and gas?

- Case Remanded back to the Tax Commission
- SB 17 codified the formula for calculating oil and gas severance tax in accordance with the case, including the formula for calculating taxable value. Applied retrospectively
- Case still pending in the Tax Commission



UTAH STATE TAX COMMISSION
ORGANIZATION, STRUCTURE & LIMITS
Commissioner Michael J. Cragun

CONSTITUTION OF UTAH (ARTICLE XIII, SECTION 6)

○ Tax Commission

- Four members
- Appointed by governor with senate consent
- Political party limitation

○ Duties

- Administer and supervise State's tax laws
- Assess mines and public utilities
- Adjust and equalize valuation and assessment among the counties
- Review bond levies
- Revise local tax levies
- Equalize valuation within the counties
- Others as provided by statute



UTAH CODE (TITLE 59, CHAPTER 1 PART 2)

○ Commissioners

- Recruitment
- Qualifications
- Limitations
 - Charitable and political fundraising
 - Utah Administrative Procedures Act
 - Utah Open and Public Meetings Act

○ Duties

- Adopt rules
- Prescribe forms
- Supervise, advise and instruct county officials
- Assess property that operates as a unit across county lines, airlines, and geothermal resources
- Appoint staff
 - Administrative Secretary
 - Appeals staff
 - Internal Audit
 - Executive Director*



UTAH ADMINISTRATIVE CODE (R861-1A-16)

○ Agency Structure

- Commissioners
 - Appeals
 - Internal Audit
 - Economics and Statistics
 - Public Information
- Executive Director
 - Administration
 - Taxpayer Services
 - Motor Vehicle
 - Auditing
 - Property Tax
 - Processing
 - Motor Vehicle Enforcement



UTAH ADMINISTRATIVE CODE (R861-1A-16)

○ Duties

- Reserved by Commissioners
 - Rulemaking
 - Adjudication
 - Private Letter Rulings
 - Liaison with Governor and Legislature
- Delegated to Executive Director
 - Everything Else
 - Except These Require Commission Approval
 - Agency Budget
 - Strategic Planning
 - Penalty and Interest waivers => \$10,000
 - Offers in Compromise => \$10,000
 - Stipulated or Negotiated Agreements Resolving Appeals
 - Voluntary Disclosure Agreements >= \$10,000

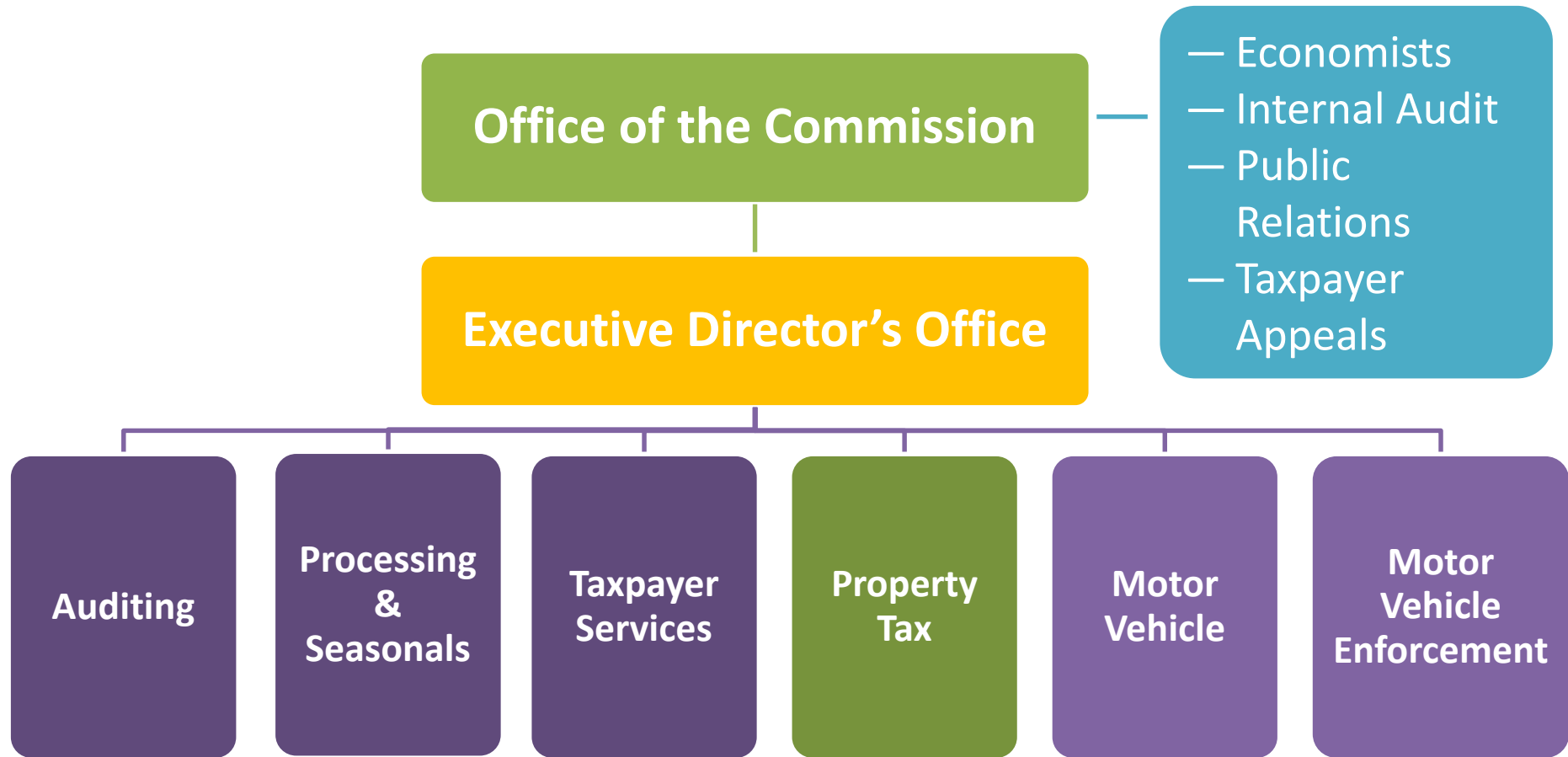


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BARRY CONOVER, EXECUTIVE DIRECTOR
UTAH STATE TAX COMMISSION
MAY 18, 2016

Utah State Tax Commission - Organization



Are there additional
statutory needs?